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06 MDL 1750

MAY 2006  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

APR 19 2006

ATTEST  
FOR THE JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION**RELEASED FOR PUBLICATION**U.S. DISTRICT COURT  
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APR 20 2006

S.D. OF N.Y.

**DOCKET NO. 1750****BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION****IN RE SONY BMG AUDIO COMPACT DISC LITIGATION**

**BEFORE WM. TERRELL HODGES,\* CHAIRMAN, JOHN F. KEENAN, D. LOWELL JENSEN, J. FREDERICK MOTZ, ROBERT L. MILLER, JR., KATHRYN H. VRATIL AND DAVID R. HANSEN, JUDGES OF THE PANEL**

**TRANSFER ORDER**

This litigation currently consists of nine actions pending in the Southern District of New York<sup>1</sup> and two actions pending, respectively, in the Central District of California and the District of New Mexico, as listed on the attached Schedule A.<sup>2</sup> Before the Panel are two motions, as amended, pursuant to 28 U.S.C. § 1407, for coordinated or consolidated pretrial proceedings of these actions in the Southern District of New York. Plaintiffs in one Southern District of New York action originally moved the Panel for transfer under Section 1407 to the Northern District of California, but now support transfer to the Southern District of New York. Common defendant Sony BMG Music Entertainment GP (Sony BMG) likewise moves for transfer under Section 1407 to the Southern District of New York. Certified class representatives in the Southern District of New York litigation along with plaintiff in one Southern District of New York action, which was originally filed in the District of New Jersey and subsequently transferred, support the motions for Section 1407 transfer to the Southern District of New York.

On the basis of the papers filed and hearing session held, the Panel finds that these eleven actions involve common questions of fact, and that centralization under Section 1407 in the Southern District of New York will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. These actions share allegations that the use of content protection

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\* Judge Hodges took no part in the decision of this matter.

<sup>1</sup> Three actions – two actions filed in the Northern District of California and an action filed in the District of New Jersey – have since been transferred to the Southern District of New York by their respective transferor courts and are included among the nine actions pending in that district.

<sup>2</sup> In addition to the actions before the Panel, the parties have identified a related action pending in the Southern District of Florida. This action and any other related actions will be treated as potential tag-along actions. See Rules 7.4 and 7.5, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001).

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software, also known as digital rights management software, on compact discs (CDs) manufactured and sold by Sony BMG was not properly disclosed and caused harm to consumers, among other things. Centralization under Section 1407 is necessary in order to eliminate duplicative discovery; prevent inconsistent pretrial rulings; and conserve the resources of the parties, their counsel and the judiciary.

Given the agreement of all moving and responding parties to transfer under Section 1407 to the Southern District of New York, this district stands out as an appropriate transferee forum for this litigation. The majority of actions are already pending in this district, where a settlement has been preliminarily approved. This district is also the location of Sony BMG headquarters.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, the actions listed on Schedule A and pending outside the Southern District of New York are transferred to the Southern District of New York and, with the consent of that court, assigned to the Honorable Naomi Reice Buchwald for coordinated or consolidated pretrial proceedings with the actions listed on Schedule A and pending in that district.

FOR THE PANEL:



John F. Keenan  
Acting Chairman

## SCHEDULE A

### MDL-1750 -- In re Sony BMG Audio Compact Disc Litigation

#### Central District of California

*Jeffrey T. Ponting, et al. v. Sony BMG Entertainment, LLC, et al.*, C.A. No. 2:05-8472

#### District of New Mexico

*Chad Black v. Sony BMG Music Entertainment, et al.*, C.A. No. 1:05-1315

#### Southern District of New York

*In re Sony BMG CD Technologies Litigation*, C.A. No. 1:05-9575

*Dora Rivas v. Sony BMG Music Entertainment*, C.A. No. 1:05-9598

*Jeffrey Potter v. Sony BMG Music Entertainment*, C.A. No. 1:05-9607

*Andrew Klewan, et al. v. Arista Holdings, Inc.*, C.A. No. 1:05-9609

*Tom Ricciuti, et al. v. Sony BMG Music Entertainment, et al.*, C.A. No. 1:05-10190

*John Maletta v. Sony BMG Entertainment Corp., et al.*, C.A. No. 1:05-10637

*Darren DeMarco v. Sony BMG Music, et al.*, C.A. No. 1:05-10825

*Laura Klemm v. Sony BMG Music Entertainment, et al.*, C.A. No. 1:06-553

*Erin Melcon v. Sony BMG Music Entertainment, et al.*, C.A. No. 1:06-1620